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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,380

08/23/2006

Stephane Chevallier

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KENYON & KENYON LLP  
1500 K STREET N.W.  
SUITE 700  
WASHINGTON, DC 20005

EXAMINER

KOHARSKI, CHRISTOPHER

ART UNIT

PAPER NUMBER

3763

MAIL DATE

DELIVERY MODE

03/11/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/577,380	<b>Applicant(s)</b> CHEVALLIER, STEPHANE	
	<b>Examiner</b> CHRISTOPHER D. KOHARSKI	<b>Art Unit</b> 3763	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14, 16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 15, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/28/2006</u>  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgements***

The Examiner acknowledges the claims filed 4/28/2006 in which claims 1-20 were cancelled and new claims 11-20 were added. Currently claims 11-20 are pending for examination in this application. Additionally, the Examiner also acknowledges and accepts the drawings filed 4/28/2006.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) that was submitted on 4/28/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

### ***Claim Objections***

Claim 11 is objected to because of the following informalities: Regarding claim 11, the claim first references "one retaining member" then later references the element as a "retaining means", this later recitation lacks antecedent basis in the claim. For the purposes of examination the Examiner will assume the retaining member is the retaining means. Additionally, the claim recites "a coupling wall" which is later referenced as "said wall", again this later recitation lack antecedent basis in the claim. For the purposes of examination the Examiner will assume the coupling wall is the wall. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-14, 16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jansen et al. (USPN6,319,233). Jansen et al. discloses a safety shield system for prefilled syringes.

Regarding claims 11-14, 16 and 19-20, Jansen et al. discloses a safety injection device (Figures 1,3 and 7) comprising a support sheath (36) having a proximal end and a distal end, a syringe body (12) secured to said support sheath (36), and a protection (28) sheath suitable for sliding axially between a retracted position (Figure 7) in which said protection sheath is retracted into an annular space formed between the syringe body and the support sheath, and an extended protection position (Figure 8) in which said protection sheath projects beyond the distal end of the support sheath (36), the device further comprising at least one retaining member (48) suitable for adopting an active retaining configuration (shown in Figure 7) for retaining the protection sheath (28) in the retracted position and, starting from said active configuration, suitable for being urged so as to allow the protection sheath to be extended (shown in Figure 8, via actuation of 48, 58), the syringe body (12) being secured to the support sheath (36) via a ring (24) having a coupling wall (distal surface of ring 24) with a reinforcing rib (32), that extends substantially transversely between the syringe body (12) and the support sheath (36), said coupling wall (distal surface of 24) presenting at least one slot (groove defined by surface of 24, and syringe body 12) enabling the retaining member (48) to be acted upon (via rib element (32,66) from a side of the coupling wall that is opposite from

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the distal end of the support sheath (36), and the ring being formed integrally with the syringe body (12, Figure 5); wherein in an inside face (face shown in Figure 5, near 24)) thereof facing towards the distal end of the support sheath (36), the coupling wall (distal surface of 24) presents a setback in which the proximal end of a thrust spring (30) is disposed, the distal end of the thrust spring (30) bearing against the protection sheath (near 58); further comprising an injection piston (20), which is secured to a transmission trigger member adapted (66), at the end of the piston injection stroke, to trigger urging the retaining member (48) away from their active configuration (Figures 1-19).

#### ***Allowable Subject Matter***

Claims 15 and 17-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Koharski whose telephone number is 571-272-7230. The examiner can normally be reached on 5:30am to 2:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Date: 2/12/2009

/Christopher D Koharski/  
Examiner, Art Unit 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763